

To: Gomez, Kendra[Gomez.Kendra@epa.gov]
From: Bokun, Lisa
Sent: Tue 8/11/2015 10:18:24 PM
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Was able to talk with David for a few minutes and he advised there won't be a deployment of CIC's, PIO's etc. There are a few CIC's down there now but he said they are just attending community meetings and there is no organized effort afoot so, more than likely, Cindy will not deploy. Understand Janie isn't current on Hazwoper and she needs to maintain. David said none of the Regions require H&S training for PIO's because they don't deploy into the danger zone etc. In his mind, if someone wants to be a member of the RSC, they can certainly do that, however, if they choose to be a member of the RSC, he will not use them as a PIO during a response and only HE controls the PIO's, the work they do and any associated deployment.

Not trying to muddy the water further, I asked him whether he objected to his personnel having associated H&S training and he said absolutely not, he was fully supportive of that training if people wanted it but not as a prerequisite to any deployment HE may call for during a response because he operates outside of the RSC. I won't say he doesn't support the RSC but he makes it crystal clear that he won't allow Susan Webster to pull his personnel for whatever she might need them to do and HE will decide who goes where, when etc. If people choose to be a member of the RSC, they lose the opportunity to serve as a PIO with him so that's why XA people aren't typically RSC members. Sort of similar to Facilities personnel – the work we do every day is the work we would do during a response. Same in XA. So, after this explanation, if you still believe XA personnel require 24 HR. Hazwoper training, I'll need to determine which ones will attend the next course – can't have them all out at the same time. If there is any consideration for allowing XA personnel to only take the 24 hr EPA training, let me know and I'll get them signed up.

From: Gomez, Kendra
Sent: Tuesday, August 11, 2015 3:41 PM
To: Bokun, Lisa
Subject: Re: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

The 24hr EPA training would be sufficient for CICs. However since Janie has HAZWOPER training, she must maintain that training. So since she isn't current, nor has the EPA H&S training, she is not in compliance! Cynthia is current on HAZWOPER but not first aid/Cpr.

Kendra C. Gomez

R6 EPA SEMP Manager

On Aug 11, 2015, at 2:49 PM, Bokun, Lisa <Bokun.Lisa@epa.gov> wrote:

What would Public Information Officers be defined as? Janie, for instance, is sitting in the JIC in Durango, CO and for the most part, the work of the PIO's is done wherever the incident command is established. Understand the Farmington, NM location is another field IC that answers to the JIC. The concern is that the Community Involvement Coordinators are soon going to be headed down and Cindy Fanning is to be deployed to more or less set up and lead that CIC activity – still all indoors but, there is a high probability that the CIC's would be going out into the community etc. Don't know for sure that Cindy would go but think it could be a possibility. Cindy is covered but not the CIC's etc. What do you think about Janie – she won't be going out to any sites etc.

From: Gomez, Kendra
Sent: Tuesday, August 11, 2015 2:32 PM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Oh sorry! If they are designated as "admin" then we can have them do the 24hr EPA H&S Training online. But their mission clearly has to be admin in nature.

From: Bokun, Lisa
Sent: Tuesday, August 11, 2015 2:06 PM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Sorry – did you tell me whether there was any work around available? Don't think so but wanted to check.

From: Gomez, Kendra
Sent: Tuesday, August 11, 2015 11:27 AM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Sorry.. I was wrapped up in the Awards Ceremony this morning. So here is an excerpt from an OSHA letter.

So the basis for holding the employer and supervisor criminally or civilly liable stems from 29 US Code 666. Moreover, and most importantly, the OSHA Act of 1970, Section 17, Penalties discusses civil and criminal liabilities.

In the workplace, the supervisors occupies a critical role. Since the employer is typically a corporation, it must act through its employees. Those employees who are designated as supervisors (typically employees who have the authority to hire, fire, enforce discipline, or enter into contractual relationships) are considered under the law to be "agents" of the employer with authority to create legal liability against their employer for their actions. Including their negligent or intentional acts that may constitute violations of OSHA regulations.

Unfortunately, many supervisors do not realize that they occupy this status or the extent to which their actions (either affirmative actions or failure to take actions when necessary) can create legal liability. Many supervisors are totally unaware of their own exposure to personal liability, for monetary judgments against them and their financial assets, or worse, personal criminal liability.

Hope this helps.

Kendra C. Gomez

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From: Bokun, Lisa
Sent: Tuesday, August 11, 2015 10:33 AM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

As soon as you can get this to me, I need to finish my e-mail to David to let him know the only deployable person he has is Cindy Fanning right now and that Janie, for all intents and purposes, should be required to return etc. Is there any sort of work around for the Hazwoper training – anything that can be taken on line by any chance? I don't think so but you know people will ask. Appreciate your help – you're doing great even though S&H will always be the bad guy but hey, I'd rather be the bad guy based on H&S than a bad guy just because I'm a bitch.....or worse yet, a bad guy because I allowed personnel to deploy without adequate training. This should teach the Region a valuable lesson about preparedness, or the lack thereof.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 9:03 PM
To: Bokun, Lisa
Subject: Re: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

I'll get you the reference tomorrow morning when I get in the office.

Kendra C. Gomez

R6 EPA SHEMP Manager

On Aug 10, 2015, at 5:49 PM, Bokun, Lisa <Bokun.Lisa@epa.gov> wrote:

<image002.jpg>

One other thing please – what are you using as your basis when we say “the Supervisor can be held personally liable if he/she knowingly allows a person to deploy when they fail to meet the training requirements” - what says we can hold them personally liable? People like David and the RA haven’t taken any of the training either and they are right smack in the middle of things down there.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 5:30 PM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

You are sooooo right!

From: Bokun, Lisa
Sent: Monday, August 10, 2015 5:29 PM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

True enough. Like I said, the only way to get their attention is going to be to have them sign something that says they accept full responsibility and liability for allowing personnel to deploy without having the required training. I can’t imagine that they would sign such a document. The key is to get James/Troy to push this issue to Sam Coleman so it does become an issue – let’s pull up the recent memo sent to the EN people by James & John Blevins regarding the need to provide a HASP and for personnel to have all required training before they go into the field. We can’t pick and choose when it is convenient to enforce the requirement and when it isn’t. How hard is this – I mean really, we offer the damn courses at no cost to people – the Supervisor’s part is to simply ensure their personnel take them.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 5:20 PM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

But you know what....I've been telling him this for the past 3-4 years or so! Its not like he didn't know....he just didn't do anything about it! Just like everyone else around here!

From: Bokun, Lisa
Sent: Monday, August 10, 2015 5:18 PM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

F#@* Me Running! David's going to shit a brick.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 5:16 PM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

None of them have the 24hr initial HAZWOPER training.

Kendra

From: Bokun, Lisa
Sent: Monday, August 10, 2015 5:11 PM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Well, at some point, there may be other members of XA who will need to deploy to handle communication issues or work with the CIC folks so please advise the following:

Austin Vela

Carmen Assunto

Jennah Durant

Joe Hubbard

Jonathan Wang

From: Gomez, Kendra

Sent: Monday, August 10, 2015 5:01 PM

To: Bokun, Lisa

Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

I don't think I have one. But Cynthia is the only one that's in XA and she's required to have first aid/CPR because she's on the AED team. So....that was an oversight for me. She should be authorized to go.

The others had JHAs requiring the training.

From: Bokun, Lisa

Sent: Monday, August 10, 2015 4:58 PM

To: Gomez, Kendra

Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

OK – I understand. Is there a JHA for XA people?

From: Gomez, Kendra

Sent: Monday, August 10, 2015 4:54 PM

To: Bokun, Lisa

Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Again, it goes back to the overall H&S status for the employee. As an RSC member, they have to have the initial 24hr HAZWOPER training with the 8hr HAZWOPER refresher; that's it. However, the employees are required to take and maintain their first aid/CPR certification due to their routine jobs (as required on their JHA). So, if they do not meet their overall H&S requirements, then they are not in compliance and are not authorized to engage in field activities.

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From: Bokun, Lisa

Sent: Monday, August 10, 2015 4:46 PM

To: Gomez, Kendra

Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

OK. Clarification please because I'm about to inform David Gray and I'll need to know. I see the minimum 24 hr Hazwoper requirement but you are showing the 1st aid/CPR training as the reason, in a few cases, why a person cannot deploy. Is the 1st aid/CPR training a requirement in addition to the 24 Hr. Hazwoper or 8 Hr refresher? Let me know when you can.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 3:45 PM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

OK. At this time, I can't really define supportive. They've been briefed on the ramifications of allowing untrained personnel deploy, but they really haven't done anything about it. So....I guess we will see.

Gary Miller (6SF) – Overdue for first aid/CPR training; last taken 2/6/13. **NOT Authorized to Engage in**

Support of Gold King Mine Spill.

Janie Acevedo – Overdue on 8hr HAZWOPER training; last taken 11/14/13. **NOT Authorized to Engage in**

Support of Gold King Mine Spill.

From: Bokun, Lisa
Sent: Monday, August 10, 2015 3:24 PM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Appreciate the clarification. Define "supportive".....are they going to back you up when you have to tell the REOC 3/4th of the people they want to send out aren't qualified to go.? Supervisors need to understand if they knowingly allow personnel to be deployed without the required training, they can be held personally liable if the person is injured. Can't imagine anyone wanting to be exposed to that liability. Please also check Gary Miller in SF and Janie Acevedo (she left yesterday for Durango, CO) and advise. Thx.

P.S. suggest you may also want to find out what the plans are regarding the REOC for this upcoming week-end, i.e., are they going to want to use Addison again or are they going to want OT A/C for them to stay here in the R.O.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 3:14 PM
To: Bokun, Lisa
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Cynthia is current on her HAZWOPER. She is overdue on her 1st Aid/CPR training.

I spoke with Troy about this earlier today and he is very supportive. I've since had conversations with Ronnie and Susan about the processing of personnel for my clearance. They are supposed to send me a list of names that they'd like to deploy and I'm either going to approve or decline.

I haven't had a chance to follow-up with Troy regarding this process. But I will ensure he knows the exact ramifications of sending personnel out when they aren't cleared by H&S>

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From: Bokun, Lisa
Sent: Monday, August 10, 2015 2:23 PM
To: Gomez, Kendra
Subject: RE: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Wow – not good. I can tell you this is going to be a huge issue that needs to be discussed immediately with Troy/James. The REOC is not going to let this stop them from deploying folks. Cindy Fanning told me she had taken the 24 hour Hazwoper a year ago but she believes it is coming due again in August.

From: Gomez, Kendra
Sent: Monday, August 10, 2015 2:07 PM
To: Bokun, Lisa
Subject: FW: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill
Importance: High

Because personnel are deploying in support of an emergency response, they must have a minimum of 24-hr HAZWOPER training, as required under 29CFR1910.120. I will follow-up with Susan to rectify that statement.

As of 8/10/15, the status of the following personnel are:

Janetta Coats – First Aid/CPR expires 8/27/15 and is currently overdue in annual Radiation Safety training

(2/27/14). She also hasn't been fit tested and trained on respiratory protection. **NOT**

Authorized to Engage in Support of Gold King Mine Spill.

Cindy Fanning – Overdue on first aid/CPR; last taken 1/10/13. **NOT Authorized to Engage in Support of**

Gold King Mine Spill.

Darrin Swartz-Larson – Does not have initial HAZWOPER training on file. **NOT Authorized to Engage in**

Support of Gold King Mine Spill.

Susan Spaulding – Met all H&S requirements; Authorized to Engage in Support of Gold King Mine Spill.

Mary Kemp – Overdue on 8hr HAZWOPER refresher; last taken 8/22/14. **NOT Authorized to Engage in**

Support of Gold King Mine Spill.

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From: Bokun, Lisa

Sent: Monday, August 10, 2015 1:31 PM

To: Gomez, Kendra

Subject: FW: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill

Importance: High

Note the highlighted words in the request from Susan Webster below – it does not say these are requirements. Please check to see if the following people have what is required and advise ASAP:

From: Assunto, Carmen
Sent: Monday, August 10, 2015 1:11 PM
To: Bokun, Lisa
Subject: can you call me. FW: RSC Request for Deployment - URGENT; Gold King Mine Spill
Importance: High

From: Webster, Susan
Sent: Monday, August 10, 2015 1:10 PM
To: Rhea, William; Loesel, Matthew; Smith, Rhonda; Kemp, Mary; Atkins, Blake; Tate, Samuel; Harrison, Ben; Assunto, Carmen; McQuiddy, David; Jackson, Marcus
Cc: Torres, Michael; Adams, Mikeal
Subject: RSC Request for Deployment - URGENT; Gold King Mine Spill
Importance: High

The REOC has been activated for the Gold King Mine Spill. This is an immediate activation of the R6 RSC.

The Region is requesting 30 EPA staff be immediately deployed to the Farmington NM area as community relations support. Deployment is for potentially a week (min 5 days deployment).

Preference is for a min of 24-hour HAZWOPER, and medical monitoring.

Please have staff, that have supervisor approval to deploy, email Michael Torres and cc Mikeal Adams and Susan Webster.

Thank you for you help! Susan

Susan Webster, Chief

Removal Section

Superfund Division

US EPA Region 6

214.789.2667 (c)